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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,349	10/30/2001	Gregory V. Hofer	100110429-1	4967

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FORT COLLINS, CO 80527-2400

EXAMINER

VIEAUX, GARY

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/002,349	Applicant(s) HOFFER ET AL.	
	Examiner Gary C. Vieaux	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2004.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 7-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14, 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Amendment***

The Amendment filed on December 31, 2004 has been received and made of record. In response to the first office action, claims 1-6, 15, and 18-23 have been  
5 cancelled, and claims 7-13, 16, and 17 have been amended. The Specification was also amended to correctly associate application numbers of related applications filed on the same day.

### ***Response to Amendments***

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Claims 17 and 19-22 were each objected to as being of improper dependency form for failing to further limit the subject matter of a previous claim. Claim 17 was overcome by amendment and claims 19-22 are rendered moot by way of cancellation. Therefore, the respective objections to claims 17 and 19-22 are hereby withdrawn.

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Claims 8-10, 16 and 19-22 were each objected to based on a respective insufficient antecedent basis. Objection to claims 8-10 and 16 are overcome by amendment and claims 19-22 are rendered moot by way of cancellation. Therefore, the respective objections to claims 8-10, 16 and 19-22 are hereby withdrawn.

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### ***Response to Arguments***

Applicant's arguments, see Remarks p. 7-11, filed December 31, 2004, with respect to claims 7-13 have been fully considered and are persuasive. The rejections of claims 7-13, as they relate to the previously presented prior art, has been withdrawn.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

5       The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 7-12 and 13** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter  
10    which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claims 7 and 13 include the amended limitation relating to exposures occurring at a "preselected phase" (Response p. 3, lines 6-10 of claim 7, p. 4 lines 16-21 of claim 13.) The Specification was not found  
15    to include support for this limitation.

      After review of the application, nowhere within the disclosure was subject matter found to fully support exposures occurring at a "preselected phase" of the frequency of illumination intensity variations, as recited in amended claim 7 or a "preselected phase" in the frequency of the periodic changes as recited in amended claim 13, which would  
20    reasonably convey to one skilled in the relevant art that the inventors had possession of the claimed invention at the time the provisional application was filed, as required by 35 U.S.C. 112, first paragraph. Review of the Specification indicates support for synchronizing the exposures to the phase of the driving source (p. 7 lines 10-12, p. 9 lines 9-15, and p. 12 lines 4-6), in which synchronization is unimportant (p. 15 lines 5-8  
25    and p. 17 line 2), or in which exposure sample rate does not synchronize phase with

light fluctuations (p. 11 line 1-8), but the Specification is not found to provide full support for the claim language as currently written, with particular emphasis directed towards locating clearly written support for the limitation of "preselected phase".

Claims 8-12 depend either directly or indirectly from independent claim 7, and  
5 therefore contain and include all limitations associated therewith.

***Allowable Subject Matter***

Claims 14, 16 and 17 have been previously indicated allowable (See Office  
Action of November 17, 2004.)

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time  
policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE  
15 MONTHS from the mailing date of this action. In the event a first reply is filed within  
TWO MONTHS of the mailing date of this final action and the advisory action is not  
mailed until after the end of the THREE-MONTH shortened statutory period, then the  
shortened statutory period will expire on the date the advisory action is mailed, and any  
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of  
20 the advisory action. In no event, however, will the statutory period for reply expire later  
than SIX MONTHS from the mailing date of this final action.

**Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Vieaux whose telephone number is 571-272-7318. The examiner can normally be reached on Monday - Friday, 8:00am - 4:00pm.

5 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

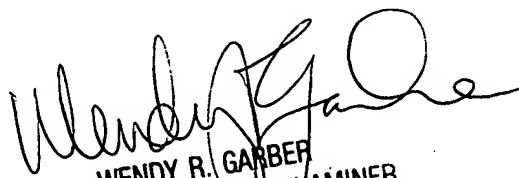
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for  
10 published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gary C. Vieaux  
Examiner  
Art Unit 2612

Gcv2

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WENDY R. GARBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600